

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

MD 10.2	ASSIGNMENTS TO INTERNATIONAL ORGANIZATIONS AND/OR NON-U.S. COUNTERPART REGULATORY AUTHORITIES	DT-16-09
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<i>Volume 10, Part 1:</i>	Personnel Management, Employment and Staffing	
<i>Approved By:</i>	Miriam L. Cohen Chief Human Capital Officer	
<i>Date Approved:</i>	March 14, 2016	
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<i>Issuing Office:</i>	Office of the Chief Human Capital Officer	
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EXECUTIVE SUMMARY

Management Directive (MD) 10.2, “Assignments to International Organizations and/or Non-U.S. Counterpart Regulatory Authorities,” has been revised to align organizational responsibilities with the most current policies, standards, and procedures relating to staffing opportunities with international organizations, and to reflect a number of changes and clarifications. The more significant changes relate to the objectives for providing staffing assistance for international organizations, approval for extensions, retirement and other benefits-related information, discussion of eligibility of Commission staff to be considered for details and transfers to international assignments, and miscellaneous clarifications concerning administrative matters during international details. Additionally, the MD has been retitled from “Staffing Assistance to International Organizations,” and the previous handbook section related to recruitment of outside candidates for employment by international organizations has been eliminated as this is no longer a practice of the U.S. Nuclear Regulatory Commission.

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I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission to permit employees to contribute to the missions of specified international organizations without risk to their employment status upon return to the NRC.

II. OBJECTIVES

- Assist international organizations in obtaining highly qualified candidates from among NRC employees who will contribute significantly to the successful operations of the organizations.
- Ensure the continued conduct of research and development in areas within the Commission’s expertise.
- Encourage qualified NRC employees to accept details or transfers to international organizations as an opportunity for career development and advancement.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Chairman

1. Provides guidance regarding NRC participation in international organizations and bilateral activities, including staffing by NRC employees.
2. Approves extensions of transfers beyond 5 years, which must be submitted to the U.S. Department of State (DOS) for ultimate approval.

B. General Counsel (GC)

Coordinates with the Executive Director for Operations (EDO) and the Director, Office of International Programs (OIP), to review and consider instances where an office director or regional administrator does not support an employee's initial request seeking transfer to an international organization or any subsequent extensions

C. Executive Director for Operations (EDO)

1. Approves details and transfers of employees within the Office of the Executive Director for Operations (OEDO) to international organizations and/or non-U.S. counterpart regulatory authorities.
2. Recommends approval of extensions of transfers beyond 5 years.
3. Coordinates with the General Counsel (GC) and the Director, OIP, to review and consider instances where an office director or regional administrator does not support an employee's initial request seeking transfer to an international organization or any subsequent extensions.

D. Chief Financial Officer (CFO)

1. Bills and collects employee payments for retirement, Social Security, and insurance benefits from employees transferred to international organizations, and continues appropriate payments of the NRC's portion of these benefits.
2. Reviews and concurs on all reimbursable or non-reimbursable details.
3. Provides travel policy guidance and support.
4. Assists in the budget formulation and execution for foreign assignments, and provides guidance on Internal Revenue Service regulations related to overseas work.

E. Director, Office of International Programs (OIP)

1. Coordinates approval of requests from international organizations and non-U.S. counterpart regulatory authorities for NRC staffing assistance and candidate referrals with OEDO, Office of the Chief Financial Officer (OCFO), Office of the Chief Human Capital Officer (OCHCO), and applicable office directors or regional administrators; and coordinates with DOS and, in some instances, the U.S. Department of Energy.
2. Coordinates approved requests for staffing assistance with OCHCO.
3. Coordinates agencywide recruitment efforts with OCHCO for staffing assistance to international organizations.

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4. Coordinates with the Chairman's Office, OCHCO, OEDO, office directors (ODs), and DOS, as appropriate, and other offices, as appropriate, approvals of extensions of transfers beyond 5 years.
 5. Coordinates with an employee selected for a detail to ensure official passport and visa requirements are met.
 6. Coordinates with the EDO and the GC to review and consider instances where an OD or regional administrator (RA) does not support an employee's initial request seeking transfer to an international organization or any subsequent extensions.
 7. Informs the Commission of a recommendation to deny reemployment rights.

F. Chief Human Capital Officer (CHCO)

1. Provides technical support to NRC employees on detail or transferring to international organizations, as well as upon completion and return from the international assignment.
2. Provides staffing and benefit information regarding policies and procedures pertinent to details and transfers to international organizations and/or non-U.S. counterpart regulatory authorities.

G. Office Directors and Regional Administrators

1. Encourage employee interest in a detail or a transfer to an international organization or a non-U.S. counterpart regulatory authority as part of career development and training.
2. Recommend highly qualified candidates for transfer or detail to international organizations.
3. Approve a transfer of an NRC employee in his or her office or region to an international organization. Should an OD or RA not support an employee's request for a transfer, the Director, OIP, must be informed and act in accordance with paragraph D.6., above.
4. Approve a detail of an NRC employee in his or her office or region to an international organization or a non-U.S. counterpart regulatory authority. Should an OD or RA not support an employee's request for such a detail, the Director, OIP, must be informed.
5. Assume primary responsibility for placing—
 - (a) A returning employee currently on detail to an international organization or a non-U.S. counterpart regulatory authority, and
 - (b) A former employee returning to the NRC from a transfer to an international organization who has been granted reemployment rights.

6. Provide an employee on detail the information technology equipment (e.g., mobile phones, laptops) needed for the foreign assignment, as necessary.

IV. APPLICABILITY

- A.** The policy and guidance in this management directive apply to all career employees including (1) individuals who are encouraged by management to apply for international assignments and (2) individuals who choose to apply on their own for international assignments.
- B.** Commission staff, who serve in indefinite confidential or policy-determining positions at the will of the appointing official, may only be considered for international assignments and details if they are returned to a career position from which the international assignment or detail will be made and to which the employee would have reemployment rights. Otherwise, consistent with 5 CFR Part 352, "Reemployment Rights," an NRC employee occupying a confidential or policymaking position is not eligible for an international assignment or detail.

V. HANDBOOK

Handbook 10.2 contains guidance and procedures for providing staffing assistance to international organizations.

VI. DEFINITIONS

Transfer

Separation of an NRC employee from NRC rolls for the purpose of appointment to an international organization. The individual is no longer an NRC employee. Transfers also include cost free expert positions.

Cost Free Expert Transfer

The NRC may transfer an employee to a Cost Free Expert (CFE) position at the International Atomic Energy Agency (IAEA) or Nuclear Energy Agency (NEA) to fulfill a need for highly specialized skills. Though a CFE appointment is usually for 2-3 years, it may be extended subject to approval of all appropriate parties.

Detail

Assignment or loan of an NRC employee to an international organization or a non-U.S. counterpart regulatory authority without the employee's separation from the NRC.

Reemployment Rights

With the consent of the NRC, a returning employee may be reemployed in his/her former position or one of equal seniority, status and pay. Reemployment rights pertain only to returning transferred employees, including cost free experts (not detailed employees, who remain NRC employees throughout their assignment).

VII. REFERENCES

Code of Federal Regulations—

5 CFR Part 352, “Reemployment Rights.”

5 CFR Part 352, Subpart C, “Detail and Transfer of Federal Employees to International Organizations.”

Part 352.304, “International Organizations Covered.”

Part 352.307, “Eligibility for Transfer.”

Part 352.309(c), “Retirement Health Benefits, and Group Life Insurance.”

Part 352.311(e), “Reemployment.”

5 CFR Part 1201, Subpart B, “Procedures for Appellate Cases.”

Part 1201.21, “Notice of Appeal Rights.”

Part 1201.22, “Filing an Appeal and Responses to Appeals.”

International Atomic Energy Agency Web Site:

<https://www.iaea.org/about/employment>.

International Organizations Careers Web Site:

<https://www.iaea.org/about/employment>.

NRC Management Directives—

4.2, “Administrative Control of Funds.”

10.41, “Pay Administration.”

10.62, “Leave Administration.”

14.1, “Official Temporary Duty Travel.”

NUREG/BR-0135, Rev. 3, “Drug-Free Workplace Program.”

Office of the Chief Human Capital Officer Web Site:

<http://www.internal.nrc.gov/HR/international-assignments.html>.

Office of International Programs Web Site:

<http://www.internal.nrc.gov/OIP/index.html>.

United States Code—

5 U.S.C. 3343, “Details; to International Organizations.”

5 U.S.C. 3581-3584, “Reemployment after Service with an International Organization.”

5 U.S.C. 3582, “Right of Transferring Employees.”

5 U.S.C. 3583, “Computations.”

5 U.S.C. 6303, “Annual Leave; Accrual.”

5 U.S.C. 6304, “Annual Leave; Accumulation.”

5 U.S.C. 8101, “Compensation for Work Injuries, Definitions.”

5 U.S.C. 8132, “Adjustment after Recovery from a Third Person.”

18 U.S.C. 209, “Salary of Government Officials and Employees Payable Only by the United States.”

U.S. Department of State, International Opportunities Web Site:

<http://iocareers.state.gov/Main/Home>.

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I. GENERAL

A. Types of International Opportunities

1. The U.S. Nuclear Regulatory Commission may detail or transfer an employee to any designated public international organization as provided in 5 CFR 352.304, "International Organizations Covered." Transfers also include cost free expert (CFE) positions.
2. International organization opportunities are posted on the Office of International Programs (OIP) Web site (<http://www.internal.nrc.gov/OIP/index.html>), the U.S. Department of State (DOS) Web site (<http://iocareers.state.gov/Main/Content/Page/federal-agencies-employees>), and the IAEA Web site (<https://www.iaea.org/about/employment>).

3. The NRC may transfer an employee to a CFE position at the International Atomic Energy Agency (IAEA) or Nuclear Energy Agency (NEA) to fulfill a need for highly specialized skills. Though a CFE appointment is usually for 2-3 years, it may be extended subject to the approval of all appropriate parties.
4. The NRC may detail an employee to a non-U.S. regulatory counterpart authority.

B. International Organizations Covered

1. A list of approved international organizations can be found at: <http://iocareers.state.gov/Main/Content/Page/approved-international-organizations>.
2. A transfer (with reemployment rights) of an NRC employee may be made to a public international organization or an international organization preparatory commission that is not on the list of approved international organizations only when the Office of Personnel Management (OPM), after consultation with DOS, agrees that the organization qualifies for inclusion on the list.

C. Time and Travel for Interview

The NRC may approve an excused absence of up to 3 days for an employee to be interviewed for a proposed detail or transfer to an international organization. The NRC may also approve official travel within the United States for this purpose.

D. Limitations on a Transfer or a Detail to an International Organization

A transfer or detail, or a series of transfers or details, may not exceed more than 5 consecutive years unless the Secretary of State, at the request of the NRC, determines that the extension is in the national interest. If the request is granted, the detail or transfer may be extended up to an additional 3 years. Time served under one or more details or transfers, or combinations thereof, may not exceed 8 years in the aggregate.

E. Promotion

An NRC employee transferred or detailed to an international organization will be considered for every promotion for which the employee would have been considered if present and on duty with the NRC. If the employee's official position is upgraded during the employee's absence, the employee will be promoted in the position effective the date it would be made if the employee was present.

F. Downgrade

If the employee's position is identified for downgrading during his or her absence, the downgrading action will be withheld until the employee returns or the employee will be returned to a different position at his or her former grade level.

G. Within-Grade Step Increase

A within-grade step increase for an employee transferred or detailed to an international organization will be effected without NRC supervisory certification of acceptable level of competence. The action will be processed upon the employee's return to duty. The effective date of each action will be the earliest date of eligibility for the increase. An employee is not entitled to back pay while absent during transfer to an international organization.

II. EMPLOYMENT BY TRANSFER

A. Eligibility

Eligibility criteria for transfer to an international organization can be found at 5 CFR 352.307, "Eligibility for Transfer." Commission staff, who normally serve in an indefinite confidential or policy-determining position at the will of the appointing official, may be considered for international assignments; however, before accepting such an assignment a Commission staff member must be returned to a career position from which the international assignment will be made and to which the employee would have return rights. Otherwise, consistent with 5 CFR Part 352, "Reemployment Rights," an NRC employee occupying a confidential or policymaking position is not eligible for an international assignment by transfer.

B. Required Consent

Office directors (ODs) and regional administrators (RAs) approve assignments of employees under their jurisdiction for transfer to international organizations. Approval of a transfer entitles the employee to reemployment rights, as well as retirement, health benefits, group life insurance coverage, and other rights and benefits. Approvals are subject to prior written consent by the employee's office director before transfer of the employee. If an employee leaves the NRC without this consent, the action will be considered an abandonment of position or resignation by the employee who will therefore lose reemployment rights. It is the policy of the NRC to approve transfers. Denials should be infrequent and require prior review and concurrence by the Director, Office of International Programs (OIP), the Executive Director for Operations (EDO), and the General Counsel (GC). The Commission also must be informed of any denials.

C. Letter of Consent

1. ODs and RAs will sign a letter of consent approving an initial transfer, as well as any extension for up to 5 years. An extension of a transfer requires a new letter of consent to be signed by the OD or RA. As with the initial approval, it is the policy of the NRC to approve extensions for up to a total of 5 years. An OD or RA denial of a request for an extension must be reviewed by the Director, OIP, OEDO, and OGC,

and the Commission must be informed. An extension of a transfer beyond 5 years requires coordination with the Director, OIP, to obtain the additional consent by the EDO, the Chairman, and ultimately the U.S. Secretary of State.

2. The international organization will be notified in writing of NRC consent to the employee's transfer. The effective date of the transfer and any limitations will be specified. The effective date of transfer will be by mutual consent of the NRC and the international organization concerned.

D. Rights and Benefits Retained by Transferred Employees

1. Retirement, Health Benefits, and Group Life Insurance

- (a) OCFO will make appropriate payments to the employee's retirement, social security, health benefits, and group life insurance systems if the employee has elected, in writing, to retain coverage and makes continuing and current payments to the respective funds. Except for health benefits, payments and contributions to these funds are based on the rate of pay the employee would have received if he or she had not transferred. OCFO will notify the employee, in writing, as to the amounts of the payments and how, when, and where to make them to retain coverage. If the employee fails to make current payments, retirement, health benefits, and group life insurance coverage terminate on the last day of the pay period for which payments were currently deposited, subject to a 31-day extension of life insurance and health benefits coverages. Employee payments are considered currently deposited if received by the agency before, during, or within 3 months after the end of the pay period for which payment is due.
- (b) An employee may not contribute to the Thrift Savings Plan (TSP) while on transfer. However, if he or she has elected to retain Federal retirement coverage while employed by the international organization, and has made all deposits required for such coverage, upon return to Federal service, the transferred employee is allowed to make up TSP contributions missed as a result of his or her service with an international organization, receive makeup contributions from the NRC, and receive lost earnings on makeup agency contributions as provided in 5 CFR 352.311(e), "Reemployment."
- (c) A transferred employee who elects to continue coverage for retirement, health benefits, and group life insurance and who continues to make required payments on a current basis is considered to remain an employee of the NRC for such benefits. For retirement and group life insurance purposes, the NRC will determine the applicable rate of pay in accordance with the provisions of 5 U.S.C. 3583, "Computations." The Office of the Chief Human Capital Officer (OCHCO) will keep a transferred employee informed of all developments that

affect rates, coverage, and enrollments under the retirement, social security, life insurance, and health benefits programs.

- (d) Service with an international organization, including the period required for reemployment (not to exceed 120 days), is considered creditable for all appropriate Federal employment purposes if the employee retained full retirement coverage. As a matter of law, in accordance with 5 U.S.C. 3582, "Right of Transferring Employees," any service that forms the basis for an annuity with an international organization is not creditable towards Federal retirement. In order to obtain credit towards Federal retirement, a transferred employee must continue to contribute to his or her Federal retirement system and, for that period, must waive any retirement credit with and not collect a pension from the international organization.
- (e) Terminated coverage may not be renewed before the employee actually reenters on duty in a pay status with the NRC. Terminated retirement, health benefits, and life insurance coverage may be reinstated retroactively when, as approved by OPM, failure to make the required current deposits was the result of circumstances beyond the control of the employee and the payments were deposited at the first opportunity, as provided in 5 CFR 352.309(c), "Retirement Health Benefits, and Group Life Insurance."

2. Leave

An employee transferring to an international organization will be furnished a statement of sick and annual leave balances. The employee may receive a lump-sum payment, or elect to retain credit for all accumulated and accrued annual leave. Annual leave retained to the employee's credit may be paid to the employee by lump-sum payment at any time before reemployment at the request of the employee. If an employee receives a lump-sum payment and is reemployed within 6 months following the date of transfer, the amount of the lump-sum payment must be refunded to NRC. If the employee has any leave restored under 5 U.S.C. 6304(d)(1), "Annual Leave; Accumulation," a lump-sum payment must be made immediately for that leave. See Management Directive (MD) 10.62, "Leave Administration," for further details, including requirements for refunds of lump-sum leave payments. An employee's sick leave balance, at the time of transfer, will be retained without increase or decrease in accumulation, until he or she returns to duty.

3. Compensation for Injury or Death

An employee who transfers to an international organization is entitled during the transfer to retain all rights and benefits in accordance with 5 U.S.C. 8101, "Definitions." Any injury or death payments made by the international organization under its own system are credited against any benefits payable in accordance with 5 U.S.C. 8132, "Adjustment after Recovery from a Third Person."

4. Forms

All applicable forms and frequently asked questions related to transfers can be found on the OCHCO Web site at <http://www.internal.nrc.gov/HR/international-assignments.html>.

E. Reemployment After Transfer

1. A transferred employee must inform OCHCO of the intent to invoke his or her reemployment rights a minimum of 90 calendar days from the date of separation with the international organization. A transferred employee may apply for reemployment either before or after a voluntary or involuntary separation from the international organization.
2. Pursuant to 5 CFR 352.311(a)(1), a transferred employee is entitled to reemployment if the employee has been separated, either voluntarily or involuntarily, without cause, within the term of employment with an international organization.
3. The employee is entitled to be reemployed in his or her former position or one of like seniority, status, and pay within 30 days of his or her application for reemployment, subject to applicable pre-employment security processing.
4. If the position has been downgraded, the employee may be eligible for retained grade, retained pay, or both, as appropriate, in accordance with MD 10.41, "Pay Administration."
5. A transferred employee must be cleared by security before being allowed to enter on duty. The processing time for each individual case will vary depending upon its complexity, but the security process should be initiated at least 9 months before the employee's expected return date.
6. Pre-employment drug testing is required. The NRC will not extend a final offer of employment to any applicant with a verified positive or invalid test result. An applicant with a verified positive or invalid test result may not reapply to the NRC for a period of at least 1 year and must provide evidence of rehabilitation as determined by the NRC's contract medical review officer.
7. Upon reemployment, a transferred employee is entitled to—
 - (a) The same rate of pay to which the employee would be entitled had the employee remained continuously in the Federal service;
 - (b) Recredit for all accumulated and accrued annual and sick leave at the time of separation, if any; and

- (c) Have the period of service with the international organization counted as creditable for all Federal employment purposes, if the employee elected to make the appropriate payments into his or her retirement account (see Section I.B.4 of this handbook).

F. Right of Appeal

1. If the NRC fails to reemploy an employee within 30 days of the employee's application for reasons other than delays in pre-employment security processing, the employee will be notified in writing of the reasons and of the rights to appeal to the Merit Systems Protection Board under the provisions of the board's regulations. An appeal must be filed during the period beginning the day after the effective date of the action being appealed and ending 30 days after the effective date (5 CFR 1201, Subpart B, "Procedures for Appellate Cases"; 1201.21, "Notice of Appeal Rights"; and 1201.22, "Filing an Appeal and Responses to Appeals").
2. If the NRC fails to reach and issue a decision to the employee within 30 days from the employee's application for reemployment, the employee is entitled to appeal the failure of the NRC to issue a decision to the Merit Systems Protection Board under the provisions of the board's regulations.
3. An appeal alleging that the NRC failed to comply with any of the other provisions of 5 U.S.C. 3343 and 3581-3584 may be submitted to the Merit Systems Protection Board under the provisions of the board's regulations.

III. ASSIGNMENT BY DETAIL

An NRC employee may be detailed on a reimbursable or non-reimbursable basis to an international organization or a non-U.S. counterpart regulatory authority in accordance with the following:

A. Eligibility and Authority

1. All employees, including those serving under career appointments in the Senior Executive Service (SES), are eligible for detail to an international organization or a non-U.S. counterpart regulatory authority. However, Commission staff, who serve in indefinite confidential or policy-determining positions at the will of the appointing official, may only be considered for details if they are returned to a career position from which they will be detailed. Otherwise, consistent with 5 CFR Part 352, an NRC employee occupying a confidential or policymaking position is not eligible for a detail.
2. An OD or RA may detail any NRC employee to an international organization or a non-U.S. counterpart regulatory authority requesting services.

3. An OD or RA who denies an employee request for a detail must inform the Director, OIP.

B. Length of Details

A non-reimbursable detail will normally not exceed 1 year. All time spent on any series of details or combination of details and transfers will not exceed the limits stated in Section I.D of this handbook.

C. Travel Authorization

The provisions outlined in MD 14.1, "Official Temporary Duty Travel," for overseas travel at the expense of the NRC, apply to all details to international organizations.

D. Status

An employee on detail to an international organization or a non-U.S. counterpart regulatory authority remains an employee of the NRC for all purposes. More specifically—

1. The employee's pay, allowances, privileges, rights, seniority, and other benefits are preserved. The employee will continue to receive pay, allowances, and benefits from funds available to the NRC.
2. The employee continues to earn leave under the NRC system and will have absence from duty with the international organization or the non-U.S. counterpart regulatory authority charged against that leave. When assigned overseas, the employee is entitled to travel time and the maximum leave accumulation benefits of 5 U.S.C. 6303(d) and 6304(b).
3. The employee will be considered for promotion in accordance with Section I.E of this handbook.
4. The employee will return to his or her originating program office or region to a position equal to or similar to his or her original position (i.e., a position at the same grade and salary the employee would have received if not detailed). If the position has been downgraded, the employee will return to the downgraded position with grade retention, pay retention, or both, as appropriate.
5. While on assignment, the employee will continue to report to a supervisor within his or her originating office or region as determined by the originating office.
6. The employee will complete all NRC-required training during his or her assignment.
7. The employee will be subject to drug testing in accordance with NRC's Drug-Free Workplace Plan (see NUREG/BR-0135, Rev. 3, "Drug-Free Workplace Program").

8. The employee, the NRC supervisor, OD, RA, and Director, Office of Administration, are subject to all regulations, standards, and reporting requirements set forth in Management Directive 10.130, "Safety and Occupational Health Program."

E. Attendance

ODs and RAs will arrange for periodic certification as to the attendance of employees under their jurisdiction from an appropriate supervisory official of the international organization concerned.

F. Reimbursement to Employee for Expenses

An international organization or a non-U.S. counterpart regulatory authority may pay or reimburse a detailed employee for allowances and expenses incurred in the performance of duties required by the detail without regard to 18 U.S.C. 209, "Salary of Government Officials and Employees Payable Only by the United States." An employee may not accept reimbursement from both the international organization or the non-U.S. counterpart regulatory authority and the NRC for the same expense. If, however, the reimbursement from the international organization or the non-U.S. counterpart regulatory authority is less than that to which the employee is entitled under applicable regulations of the NRC, the NRC will reimburse the employee for the difference. The employee will furnish OCFO with an itemized statement of all expenses paid or reimbursed by the international organization, certified by a competent official of the international organization. In accordance with 18 U.S.C. 209, the employee is not permitted to receive reimbursements, allowances, or expenses from a foreign government while on detail to an international organization or a non-U.S. counterpart regulatory authority.

G. Documentation

1. The NRC and each employee selected for a foreign assignment will sign a "bilateral assignment" Memorandum of Understanding with the host international organization, country, or other regulatory counterpart.
2. Each authorized detail shall be documented in the employee's personnel file with a Standard Form 52, "Request for Personnel Action," showing the organization and position to which detailed, the effective date of the detail, and the not-to-exceed date.